

**BRIGHAM CITY PLANNING COMMISSION
TUESDAY, JUNE 20, 2006
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Kevin Lane	Chairman
	Deen Coleman	Commissioner
	David Hipp	Second Alternate
	Reese Nielsen	Vice-Chairman
	Joan Peterson	Commissioner
	Barbara Poelman	Commissioner
CITY STAFF:	Mark Teuscher	City Planner
	Jeff Leishman	Associate Planner
EXCUSED:	Steve Hill	City Council Liaison
	Patti Ellis	First Alternate
	Bill McGaha	Commissioner
	Eliza Wood	Administrative Secretary

AGENDA:
WORK SESSION – AGENDA REVIEW

PLEDGE OF ALLEGIANCE

APPROVAL OF THE JUNE 06, 2006 MEETING MINUTES

APPLICATION #2821 / PUBLIC HEARING / CHANGE OF ZONE FROM A-5 (AGRICULTURAL DISTRICT) TO MD (MANUFACTURING-DISTRIBUTION DISTRICT) FOR PARCEL 03-076-0010 LOCATED AT 700 NORTH 900 WEST / MICHAEL FLINT

APPLICATION #2651 / PUBLIC HEARING TO RECEIVE INPUT RELEVANT TO A DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS “THE COMMONS AREA”, LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION

APPLICATION #2262 / CONDITIONAL USE PERMIT / AGGREGATE EXTRACTION / 1200 EAST 700 SOUTH / LEGRAND JOHNSON CONSTRUCTION

APPLICATION #2822 / CONDITIONAL USE PERMIT / MANAGERS APARTMENT, LAUNDRY, OFFICE / 219 EAST 700 SOUTH / JAN SCHOEN

APPLICATION #2824 / DESIGN REVIEW / RETAIL CENTER / 35 EAST SKYLINE DRIVE / NADIM BAKHAZI

APPLICATION #2823 / CONDITIONAL USE PERMIT / REHABILITATION TREATMENT CENTER-FACILITY / 1125 WEST 950 SOUTH / CATALYST RTC, LLC

APPLICATION #2798 / PEDESTRIAN SIDEWALK MASTER PLAN / BRIGHAM CITY CORPORATION

PUBLIC INPUT:

DISCUSSION:

Chairman Lane opened the meeting at 6:30 p.m. Commissioner Coleman led the Pledge of Allegiance.

Some corrections to the minutes of June 06, 2006 were discussed. On line 94, 'DNR' needs to be changed to 'DWR'. Mr. Teuscher stated that on line 94, 'Division of Wildlife Resources' should be added with 'DWR' in parentheses. On line 111, 'it' needs to be changed to 'Conditional Use Permit' and change the end of that sentence to read 'approve business license and begin operation' instead of 'and then let them go.' Clarify the statement beginning on line 138 by deleting the words 'there were issues with'. In line 141, 'he understood that they want' needs to be changed to read 'he understood what they want'. On line 322, add 'wide access' so it will read, '20-foot wide access paved'. On lines 399 and 400 the sentence should read 'The problem is that there is an existing commercial zone and access at this time'. In line 400, 'DOT' needs to be changed to 'UDOT'. In line 401, 'is showing' needs to be changed to 'needs to show'. In line 478, add to the end of the sentence, 'of working with the Building Department on this issue for fire safety'. In line 482, 'where they fall' needs to be changed to read 'whether they meet fire code'. In line 489, 'than' needs to be changed to 'then'. At the end of line 495, add the word 'they' between the words 'and will'. In line 383, 'was' needs to be changed to 'were' and 'food users' needs to be changed to 'restaurants'. On line 385, 'food use' needs to be changed to 'restaurants'.

MOTION: A motion was made by Commissioner Poelman to approve the minutes of June 06, 2006 as corrected. The motion was seconded by Commissioner Peterson and passed unanimously.

APPLICATION #2821 / PUBLIC HEARING / CHANGE OF ZONE FROM A-5 (AGRICULTURAL DISTRICT) TO MD (MANUFACTURING-DISTRIBUTION DISTRICT) FOR PARCEL 03-076-0010 LOCATED AT 700 NORTH 900 WEST / MICHAEL FLINT
This request is consistent with the existing and proposed General Plan.

MOTION: A motion was made by Commissioner Nielsen to open the Public Hearing. The motion was seconded by Commissioner Coleman and passed unanimously.

Chairman Lane invited the public to come address the Commission. There was no public comment.

MOTION: A motion was made by Commissioner Nielsen to close the Public Hearing. The motion was seconded by Commissioner Coleman and passed unanimously.

Mr. Teuscher stated that Staff supports the rezone because there is no basis to deny it and recommends to the Commission to forward this application on to the City Council with the recommendation to approve. There is one issue to be aware of; in the new proposed General Plan there is a proposed realignment of a road, paralleling the railroad tracks, which would cross this property. They need to be aware that when development takes place the City will probably ask for a dedication. At some point, that road will be a belt route that will run along the railroad tracks.

MOTION: A motion was made by Commissioner Coleman to forward to City Council with the recommendation to approve **APPLICATION #2821 / PUBLIC HEARING / CHANGE OF ZONE FROM A-5 (AGRICULTURAL DISTRICT) TO MD (MANUFACTURING-DISTRIBUTION DISTRICT) FOR PARCEL 03-076-0010 LOCATED AT 700 NORTH 900 WEST / MICHAEL FLINT** based on the finding of fact that it must comply with Utah Code 10-9a-502, must comply with Brigham City Code Chapter 29.01.150 and seeing no comments from the Public Hearing that they would follow the stipulations of the Staff comments and such use will not under any circumstances of the particular case be detrimental to the health, safety and general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and such use is in compliance with the current and future Brigham City General Plan. The motion was seconded by Commissioner Poelman and passed unanimously.

APPLICATION #2651 / PUBLIC HEARING TO RECEIVE INPUT RELEVANT TO A DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS "THE COMMONS AREA", LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION

Perry City has already recommended these guidelines to their City Council. Both Cities made some changes. There is one area, under Tree Standards, where there is a difference between the two Cities. Perry City recommended 3-inch caliper trees and Brigham City is recommending 1 1/2-inch caliper trees; based on the recommendation by Paul Jensen, Brigham City Parks Superintendent. A 3-inch caliper tree is more difficult to plant than a 1 1/2-inch caliper tree.

MOTION: A motion was made by Commissioner Nielsen to open the Public Hearing. The motion was seconded by Commissioner Poelman and passed unanimously.

Chairman Lane invited the public to come forward and make comment on this application.

Byron Hansen, property owner in that area, came forward. He stated that this current document is far better than the one that was proposed about five years ago. He thinks the standards are most beneficial; he likes them and is encouraged by it. He also had some questions. Mr. Hansen said under item #3, it states that there is an offset from the property line of 35-feet. He stated that in a lot of other cities the restriction on the distance from the building to the property line is 25-feet. He said it made sense if that distance was to give delivery trucks enough distance to get in. Mr. Teuscher said this applies only to those specific items such as delivery entrances and equipment; if none of those items are there, the existing setback standard will apply.

On item 4-B Sidewalks, Mr. Hansen said that 8-feet sounds like a wide sidewalk in terms of development. He asked for that to be clarified as far as the standard. Mr. Teuscher stated that he went out and looked at some developments and said that 8-foot sidewalks are pretty common. He stated in Logan; Kohl's is 12-feet and Best Buy is about 10 to 15-feet. These are not anything in the public right-of-way; these are an internal pedestrian way. Mr. Hansen stated that he was okay with an 8-foot sidewalk.

Under item 7, Mr. Hansen said that he has a concern about that. It is indicating there should be no deliveries between the hours of 10:00 p.m. and 7:00 a.m. unless the business has developed berms to keep the noise level down so it does not go above 45 decibels. Mr. Hansen feels that is too restrictive. He stated that the primary development in that area, he feels, is going to be commercial. There is no residential in there. He also stated that Wal-Mart is stocking their building all night long and his business has parts delivery trucks that come all night long. It seems to him to be an arbitrary thing that could cause difficulty. He asked that the Commission think about what they are asking for there because he knows, as businesses are brought in that are retail in nature, they spend all night long restocking their stores with semi's coming in.

Commissioner Nielsen asked Mr. Hansen if adding the phrase, 'as measured at the lot line of any adjoining residential property', would cause him any hardship. Mr. Hansen replied that he would not have any problem with that. Mr. Hansen also stated that having to prove that the delivery trucks, that come to his building during the night, meet a noise standard seems oppressive to him. Commissioner Nielsen suggested that the intent of the noise stipulation was likely to protect residential properties. Mr. Hansen said it appeared to him as something that had been brought in from another document without a lot of pondering on what was being required. Mr. Teuscher asked Jeff Leishman what the current standards in the regular commercial zones are. Mr. Leishman stated the difficulty is that the City has a noise ordinance with decibels, standards and hours. Many years ago, the City Council found that to be invalid and nothing has happened since then. It is in the ordinance but the City Council declared it not to be used. Mr. Teuscher asked Mr. Leishman if the delivery times are enforced. Mr. Leishman stated that they are enforced between 10:00 p.m. and 6:00 a.m. in any area. Mr. Teuscher stated that he was not so concerned about the noise ordinance as much as the hours of operation. Mr. Hansen said he suspects the

hours-of-operation ordinance is being violated all over. Mr. Teuscher said the City gets complaints on that all the time.

Commissioner Poelman asked Mr. Hansen if his delivery trucks had the beeping. He answered that he believed that they do. Mr. Hansen also said the GM parts trucks deliver at all hours of the night. Many different businesses have delivery at night with the trucks that beep when backing. Mr. Leishman stated that Mr. Hansen's point was well taken and his comments should be taken and evaluated, based on what we already have, to make them compatible with what we have, conducive of provisions. Mr. Hansen made the comment that other than the noise stipulation, the document looks good to him and he thinks it is very pertinent that a higher standard is established in that area. Now is the time to do it and do it right.

Commissioner Coleman asked about a buffering zone between commercial and residential. Mr. Teuscher stated that in the current Code, the City allows residential in commercial zones. Chairman Lane said the Commission has talked about a buffer zone before but he has not seen that it has been written anywhere.

MOTION: A motion was made by Commissioner Nielsen to close the public hearing. The motion was seconded by Commissioner Coleman and passed unanimously.

Mr. Teuscher stated that Staff would recommend continuing this application or approving it and direct Staff to bring back item 7 before it is forwarded to the City Council. Commissioner Nielsen commented that the Commission would like to choose a minimum tree size, it should be modified accordingly. In his opinion, a 3-inch caliper tree is too big. Mr. Teuscher suggested approving a minimum of 1-1/2 inch caliper and 6-foot tall trees. Commissioner Coleman commented that he did not want the requirement to be too restrictive. He felt that 1-1/2 caliper would cover the requirement. The types of trees and different heights per caliper were discussed. Mr. Teuscher stated that deciduous trees are measured by caliper and conifers are measured by height. A caliper and height requirement would be the most effective. Commissioner Coleman and Mr. Teuscher discussed their differences of opinion of what is and is not considered a tree. Commissioner Coleman's concern was limiting the ability to landscape by requiring all trees to be 6-feet in height. Commissioner Nielsen brought up the list of trees that will be chosen from for landscaping. The list does not say the choices are "recommended", it lists certain trees that are allowed to be planted. Mr. Teuscher agreed to just requiring the 1-1/2 inch caliper and not the height.

MOTION: A motion was made by Commissioner Nielsen to continue **APPLICATION #2651 / PUBLIC HEARING TO RECEIVE INPUT RELEVANT TO A DESIGN GUIDELINE ORDINANCE FOR THE BRIGHAM CITY/PERRY CITY INTERLOCAL AGREEMENT AREA IDENTIFIED AS "THE COMMONS AREA", LOCATED WEST OF MAIN STREET AND SOUTH OF 1100 SOUTH / BRIGHAM CITY CORPORATION** until the July 5, 2006 meeting. In the interim two specific issues will be addressed and any other issues any Commissioner or Staff finds that may come up. One is specific to the delivery and loading operations, Item 7 under Article 2 with some review of current statutes in Brigham City and as well as to determine if this noise level shall be applicable only to lot lines on residential areas and to also to revise the tree standard to show that the street trees shall have a minimum caliper of 1-1/2 inches. The motion was seconded by Commissioner Poelman and passed unanimously.

APPLICATION #2262 / CONDITIONAL USE PERMIT / AGGREGATE EXTRACTION / 1200 EAST 700 SOUTH / LEGRAND JOHNSON CONSTRUCTION

Duane Smith and Rick Arnold came to the table to represent LeGrand Johnson. Commissioner Nielsen asked if they had a chance to look at the Staff evaluation and if they had any issues or problems with what is in there. Mr. Smith stated that they did look at the evaluation and had only one problem, it is on page six of the Staff Evaluation, under conditions; '*All exiting gravel truck traffic is required to proceed east on US 89/91 to Cache County.*' It was discussed that the truck traffic should comply with whatever the Utah Department of Transportation (UDOT) requires because access in and off of that highway is UDOT's jurisdiction. Chairman Lane clarified that Mr. Smith wants the sentence, '*All exiting gravel truck traffic is required to proceed east on US 89/91 to Cache County.*' removed from the conditions. Mr. Smith stated that everything else was quite well written.

Commissioner Nielsen asked if there were any pre-weather wind conditions under which Johnson's would be precluded from operating? Is there something in the air quality requirement that either Johnson's would impose on themselves or the State has imposed on them? Mr. Smith suggested working with the Mayor on that one. He said that he does not know of any written restrictions. Mr. Teuscher suggested that, under page two, they add 'operator will comply with any mandates from the Department of Environmental Quality (DEQ).' Mr. Teuscher asked Mr. Smith if he was okay with adding that line in the agreement. Mr. Smith stated that it would be fine.

Commissioner Poelman had a question on the access agreement. She said that Mr. Smith had indicated at the last meeting that he anticipated hearing something on the access agreement and asked him if he had heard anything yet. Mr. Smith said that he had not. It will hold them up but it will not change and the Commission has a copy of the final agreement. Mr. Teuscher stated that the City will require a signed copy of that agreement. A business license will not be issued until that copy is received.

Commissioner Nielsen asked if there was any further movement on water. There was nothing further on the water issue but Commissioner Nielsen commented that they could proceed.

MOTION: A motion was made by Commissioner Coleman to approve **APPLICATION #2262 / CONDITIONAL USE PERMIT / AGGREGATE EXTRACTION / 1200 EAST 700 SOUTH / LEGRAND JOHNSON CONSTRUCTION** based on the conditions that Staff has put into the final Staff Evaluation and that they comply with all the State regulations, the Department of Environmental Quality, and all the Staff and Engineering comments; direct the Staff to prepare the administrative details of the Conditional Use Permit. The motion was seconded by Commissioner Peterson.

DISCUSSION: Commissioner Nielsen stated that he believes that the motion should include the Staff evaluation comments under Conditional Use Standards for the Natural Resource evaluation as modified in this meeting with respect to specific comments in the additional requirements for air quality and the deletion of certain specific traffic requirements; leaving traffic requirements as controlled by UDOT. Commissioner Coleman so moved and the motion was seconded by Commissioner Peterson. The motion passed unanimously.

APPLICATION #2822 / CONDITIONAL USE PERMIT / MANAGERS APARTMENT, LAUNDRY, OFFICE / 219 EAST 700 SOUTH / JAN SCHOEN
This application was continued due to lack of some information.

Jan Schoen came to the table to represent his application.

Commissioner Nielsen asked if approval of this application, with a recommendation to the City Council to accept reduction in parking, includes approval of the specific designs of the two buildings proposed for the residence and laundry. Mr. Teuscher stated that staff has suggested

that the buildings be comparable to the existing structures. He also clarified that the parking reduction does not go to City Council.

Commissioner Nielsen asked if it would be problematic if it was recommended as part of the conditional use, to have the residential building also be built comparable to the others as Staff has recommended. Mr. Schoen stated that since it is a pre-fabricated home, there is no way to put bricks on it in the factory. Brickwork could be done later but it can not be transported that way. After installation, the siding could be removed and brick could be put on the building. The footings, which have not been poured at this time, could be adjusted to accommodate brick. Commissioner Nielsen asked how strongly the Staff felt about it. Mr. Teuscher stated that the existing structures are all brick and it would give more consistency.

Commissioner Poelman asked if it works to add brick to a pre-fabricated home. Mr. Teuscher stated that it is not unusual to do so. As an example he stated that Brian Walker is going to take his pre-fabricated building, move it and put stucco and rock on it. Mr. Schoen stated that the homes are built by HUD standards. Mr. Teuscher stated that the City accepts that under the manufactured housing standard. This is a unified development and the City is encouraging consistency.

Commissioner Coleman stated that he does not have a real strong opinion other than the new buildings somewhat blend with the existing structures. Mr. Schoen stated that the garages are vinyl sided with no brick.

Mr. Teuscher stated that Mr. Schoen is also asking for a reduction in parking. He has shown that the clientele typically do not have the normal two cars per family and many have less. Commissioner Nielsen asked Mr. Schoen if he operates under a government contract. Mr. Schoen stated that Bear River has section-8 housing and they give out vouchers. He has a direct contract with the Federal government where he does not have to but he can rent subsidized apartments. He stated that 75% of the people in his apartments are on subsidies. The mandate requires 40% be extremely low-income.

Commissioner Nielsen brought up the parking reduction and how it may not comply in the future if the property changed hands or use. Mr. Schoen commented that if they applied that standard to the property right now, they would not meet the standard. The place was built in the 1940's and even if he took out all the grassy areas, it still would not meet the standard. Most of the people who do have cars like to park out front and there is parking in the back. Typically there are only 4-6 cars in the back.

MOTION: A motion was made by Commissioner Poelman to approve **APPLICATION #2822 / CONDITIONAL USE PERMIT / MANAGERS APARTMENT, LAUNDRY, OFFICE / 219 EAST 700 SOUTH / JAN SCHOEN** with the understanding that the on-site parking is adequate for the conditions in that the housing is listed under section-8 housing and that unless in the future there is an extreme change in that, that would be brought back to the Planning Commission to change the required parking stalls; with the stipulation that it must comply with Chapter 29.06 Conditional Uses and must comply with the Staff comments; based on findings of fact that the on-site parking is adequate and such use will not under the circumstance of the particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Peterson.

DISCUSSION: Commissioner Nielsen had some questions. He stated that the motion referenced Staff comments. One of the comments from the Police Department was that they would like to see some exterior security lighting. He asked how that would be addressed and if there is any plan to comply with that.

Mr. Schoen stated that on the stick construction one, there would be lighting on all three sides in the back. On the other one, he could put a light on the one side because there is a light right next to where the manager's place is going to go. There is a light right above it, way above the house.

Commissioner Nielsen's second comment was with respect to surface runoff and in looking at it; he does not see this generating any additional surface runoff so he thinks that is a mute comment. Mr. Teuscher stated that the roofs of the houses will generate runoff but because they are in such a large grassy area we will just have to make sure we don't overload our existing storm system and that the runoff stays onsite. Commissioner Nielsen recommended amending the motion so that a brick wainscot, similar to the office, is not required on the manager's residence. Commissioner Poelman said the reason she did not mention that specifically is because it said it 'suggested'. Commissioner Nielsen said that approval of the Conditional Use, in his view, does not require the use of brick on that particular building. He felt the motion ought to be amended to say that the residential unit does not require brick and it can be constructed as shown on the application. Commissioner Poelman so moved and Commissioner Peterson seconded. The motion passed unanimously.

APPLICATION #2824 / DESIGN REVIEW / RETAIL CENTER / 35 EAST SKYLINE DRIVE / NADIM BAKHAZI

This is an item that has been continued because the applicant had not seen the Staff evaluation. This is for a commercial strip mall development. There are two buildings. This will replace Golden Spike Motors.

Nadim Bahkazi and Lee Watkins came to the table.

Commissioner Nielsen asked Dr. Bihkazi if he had seen the Staff evaluation. Dr. Bihkazi stated that he went through the evaluation with his architects and engineers. He stated that almost all of it is acceptable with no issues. The only questions that have come up are in point number 2; curbs, gutters and sidewalks and the requirement to install those. He wanted to discuss what it would entail, cost wise, for him to do that. Commissioner Nielsen stated that the Commission had a discussion about that and the end result was there are only two sides that will be required to have a sidewalk. Mr. Teuscher stated that the Commission will need to waive the curb, gutter and sidewalk on 1100 South. The only area that would need sidewalk would be Skyline and on Highway 89. Mr. Teuscher said they would be required to have a permit from UDOT to construct within the right-of-way. He said we are just making sure we have pedestrian safety there and that pedestrian traffic is separated from vehicular traffic. It still needs to be clarified with UDOT. Curb, gutter and sidewalk will need to be waived on 1100 South.

Mr. Watkins stated that in the air photographs of Highway 89 on the intersection at 1100 South, there are crosswalks throughout the entire intersection including the crosswalk that goes from a pork chop at their corner towards their site. When the street was overlaid recently and re-stripped, the pedestrian crosswalk was not re-stripped leading from that pork chop to their property which may indicate that they are not desiring pedestrians to make that movement. The constructing of a sidewalk on Highway 89 has several issues with it. The first issue being that the only place that it could be installed would be in close proximity to an existing power pole. That power pole is either going to have to be relocated or adjusted. The only thing that sidewalk would connect to is an existing sidewalk on Skyline. The sidewalk on Skyline does not conform to ADA, the street is too steep. It is not going to be a facility that is meant to accommodate ADA pedestrians. Furthermore, if they were to build the sidewalk that connected to there, there would be no other place for it to connect to. There would be no reason to put a ramp at the intersection of Skyline and Main because that would encourage pedestrians to cross Skyline into an unsafe area because it would force them, at that point, to walk in the actual asphalt street area of Highway 89 which is a very dangerous position. He said they would vehemently oppose putting a ramp in there that would indicate or direct pedestrian traffic across Skyline into a much more perilous position.

Once you get in front of Donna's Restaurant on Highway 89, that entire area is very steep and filled with landscaping. It is not walkable. Pedestrians would have to walk in the street. That part of the street is fairly narrow compared to the front of their project site. There is no way for pedestrians to safely cross there at Skyline. They would be better off to come up Skyline a bit and cross-over by where the driveway is. That would be a safer location. The sidewalk would only serve a very limited number of pedestrians that may choose to access their site from an area that is predominantly commercial and non-residential. In front of their site, pedestrians could actually negotiate that without a sidewalk.

Chairman Lane said that part of they had discussed earlier was that they felt some of the ideas they had for development there with ideas for a restaurant and with Utah State Extension being right across the street would actually encourage people to come to their business by having a sidewalk in front of them on Highway 89. Mr. Teuscher stated that Arby's is closing and moving to a new location so that use will be gone. The only restaurants will probably be in the new development. They may see a fairly decent size student population from the USU Extension. Chairman Lane felt that the sidewalk would encourage pedestrians to visit the businesses in their project therefore becoming a benefit.

Mr. Watkins stated that the other item with the sidewalk on Highway 89 is that there is more cost that is going to be incurred than simply curb, gutter and sidewalk. There is going to have to be a couple of drainage structures installed and drainage piping. The power pole relocation has already been mentioned and possibly a street light would have to be adjusted to grade and relocated. All of these costs together could be in the range of \$15,000 to put in a sidewalk that services only this one development.

Commissioner Coleman asked how the City felt about relocating the power pole. Mr. Teuscher stated that at this point the City has not seen a design. Our code requires it; it needs to be waived or the sidewalk needs to be put in. The City needs to see some kind of design. If there are issues about moving the pole then we need to get Alan Wright, Brigham City Director of Public Power, involved. It will need to be evaluated. We need to talk to UDOT and make sure they are okay with it. Our street department needs to look at that ADA access along with UDOT. We may need to set up a meeting with UDOT and talk about it and get some comment and direction from them.

Commissioner Coleman asked if this was a preliminary design. Mr. Teuscher said that it is a final design. He said that if the Commission wants to approve it they can direct Staff to work those issues out, in terms of the sidewalk. The sidewalk will need to be waived on 1100 South and Staff directed to work with the applicant and UDOT to resolve those issues with the Public Works Department.

Commissioner Nielsen commented that even though there is a technical issue to resolve, it is still something that the Commission ought to have a look at particularly when there is talk about what is going to happen. There have been a couple of valid points raised and he suspects that the reason the striping didn't continue across there is that there is nothing to go to it at this point. Had there been something there they may well have put the striping in. He thinks along Highway 89 there is a significant safety issue and he would like to understand what UDOT's and the City's positions are. Mr. Teuscher stated that UDOT will make the decision about where sidewalk will need to be installed. It is their right-of-way that is being discussed.

Commissioner Nielsen commented that there is also a valid point about people staying in the motel that may want to go to that retail location so where is the right point for the City to put a crosswalk on Skyline. Mr. Teuscher stated that Traffic Code in the Manual of Uniform Traffic Control Devices (MUTCD) tells us where we can put sidewalk. At any intersection, there is a legal crosswalk; it may not be striped but it is there. We, as a City, would not put a crossing on that road. Mr. Watkins stated that they recommend not putting a ramp at the intersection so pedestrians do not think they have a safe place to go.

Chairman Lane invited public comment.

Kaydell Bowles came forward. He stated that he lives in a subdivision on Skyline Drive, 325-feet from this property. He said he is against this application for the following reasons. One of the considerations in the design is relating to traffic safety and traffic congestion. It says that the effect of site development to traffic safety and traffic congestion to the circulation patterns within the boundaries of the development. Since this paragraph states the effect, it suggests that there must be a study and criteria set in order to be determined whether that is met. To his knowledge, no specific traffic study, on traffic safety or congestion at this intersection, has been done. This subdivision has two egresses; crossing the intersection of Highway 89 and Skyline Drive to go north. There are four lanes there. From the intersection to the stop line is approximately 136-feet. The solid lines begin about 32-feet from that intersection. When long gravel trucks stop at those two intersections, it blocks the lane that wants to go left down toward 1100 South toward the freeway or it blocks some of the lanes that go up to Logan. This is a continual problem of congestion in this area. The current commercial business is low-traffic. However, if the mini strip mall is allowed there is probability of higher visits and greater probability both for congestion and traffic safety not only to those who walk but also who do leave. The other egress is at Michelle Drive and Highway 89/91 going to Logan. You have to cross two dangerous lanes of traffic, with a turn-lane in the middle, both going and coming, with automobiles beyond the speed limit. In his opinion, both of these intersections have high risk for accidents and increased traffic safety and congestion on these two highways. He urged the Commission not to approve the design unless these problems are addressed. On June 19, 2006, he observed the following between 4:15 to 5:30 at this intersection. There were two cars going north that crossed the double line, illegally, going into Arby's. There were four cars going south that made illegal left-hand turns onto Skyline. There were several improper lane changes at this intersection because there was blockage by the big gravel trucks that go through this intersection and other cars. To him, if there is an increase in traffic in this area, it is just going to cause more problems. Unless, there is a suitable design or a change at this intersection, he does not see how a mini strip mall, with a higher traffic flow, could viably be put in.

Dr. Bihkazi stated that he appreciated Mr. Bowles comments and said that he is right-on in his concern. Dr. Bihkazi said he has had this discussion with the City that there is really no good suitable answer at this time. The intent is to, ultimately, put a lighted intersection further down which would divert the traffic away from turning directly into Skyline Drive. He said he talked to Cory Pope, Region 1 UDOT Director, and he openly admits there is no good answer. If a median is put up, it would encourage people to make U-turns into oncoming traffic. There will be increased traffic flow with the proposed development. There is really no good short-term answer. He said they are willing to work with whatever is the best answer. At this point, since there is no good long-term answer, let's work on the long-term solution that will effectively take care of the problem. The intent is to consider diverting Skyline to the south to actually get a lighted intersection. That is not for this proposed development but the concerns are valid.

Mr. Teuscher stated that the Staff did talk to Kent Jones, the City Engineer. As this is designed, Skyline is adequate; the problem is Skyline will handle all of the traffic coming in and out. The problem that will be run into is the turning movements in close proximity to the intersection on the State highway. Commissioner Coleman stated that he heard what Mr. Teuscher was saying but one of the conditions that they always put in a motion is that whatever is being approved will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity. He is not saying that he does not want a strip mall, he would like to see another place that would benefit the residents of Brigham and Perry but it has been agreed that it is not safe and wondered what they are doing. Mr. Teuscher stated that many years ago the City zoned this property commercial. It becomes a question of a rational nexus. The Mayor and Public Works have met with this developer and recognize that Skyline needs to be realigned and that is the intent of the long-term planning. At this point, how do we tell this developer that he has to fix all the problems of the bad planning of the past and move the road that accesses this subdivision and many other commercial pieces at that site? The problem that needs to be faced is, is this developer causing the problem or is the problem a pre-existing condition. Commissioner

Coleman said he sees both sides. The new use would change the dynamics of the area. He said he does not feel good about it. There is a safety issue here. He has not heard a good solution yet.

Mr. Bowels offered as a suggested solution to state that the area be low traffic until the future allows proper realignment. He is not afraid of dentist, doctor, lawyer or financial consultant offices in that area where there is low traffic but he does have great concern with regard to safety with a mini strip mall that is going to invite multiple cars into that area which would cause further congestion and hazards to the people coming in and out of the area. Commissioner Coleman said that would not be a solution since they cannot restrict which type of commercial use goes in.

Mr. Teuscher stated that in talking to Cory Pope this similar situation can be found in Ogden and on Riverdale Road. It is not preferable but it is what was allowed. Fixing it is not a short-term solution.

Commissioner Poelman clarified that the motion was about the current design review. Commissioner Nielsen asked Dr. Bihkazi what their timing was. Dr. Bihkazi replied that it was about 6-9 months at this point. Commissioner Nielsen reiterated that one of the recommendations was to see what UDOT's position is on sidewalks. Chairman Lane commented that UDOT's decision will not change whether the Commission can approve or disapprove this application. He does not see any reason to continue this application his suggestion would be to make a decision.

Mr. Teuscher stated that the earliest they could meet with UDOT would be July 18.

MOTION: A motion was made by Commissioner Poelman to approve **APPLICATION #2824 / DESIGN REVIEW / RETAIL CENTER / 35 EAST SKYLINE DRIVE / NADIM BAKHAZI** it has met the requirements and anything that might be in question will be resolved through the Utah Department of Transportation; the requirement for sidewalk will be waived on 1100 South based on the recommendation from Staff that it be approved; stipulations being that is must comply with the Utah Department of Transportation permitting for improvements of curb, gutter and sidewalk on Main Street; must comply with Chapter 29.05 Off-Street Parking Requirements, Chapter 29.11 Design Review and with Staff comments; based on the findings of fact that the applicant will comply with Chapter 29.05 Off-Street Parking Requirements, Chapter 29.11 Design Review and with Staff evaluation comments and under such circumstances of the particular case the design review will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Peterson.

Roll Call:

Deen Coleman – Nay

David Hipp – Aye

Reese Nielsen – Aye

Barbara Poelman – Aye

Joan Peterson – Aye

The motion passed 4 to 1.

APPLICATION #2823 / CONDITIONAL USE PERMIT / REHABILITATION TREATMENT CENTER-FACILITY / 1125 WEST 950 SOUTH / CATALYST RTC, LLC

This is an item that was continued so the Staff could perform a review of the transportation impact study done by Hansen & Associates which has been reviewed by Kent Jones, City

Engineer. Based on the study, the current access is adequate for this facility. Any expansion of the facility or increase in clientele, in the future, should probably be re-reviewed by this Planning Commission.

Trevor Loria, Kreg Edgmon and Adam Poll came to the table.

Commissioner Nielsen stated that he apparently did not fully understand, at the last meeting, the Police Department comment that was suggested as a condition of approval that 'court-ordered residents not be allowed.' He asked if that is something that the law allows as part of the conditional use or not? Mr. Teuscher stated that was a recommendation from the Police Department to do so. He said that under the definition of a residential treatment facility, the City cannot mandate that but could ask the applicant to self-police that. At this point, they are indicating that they have chosen as part of their management operation to not take court-adjudicated clients. If that changes, we could ask the owner to inform the City that he is changing his criteria. All the clientele are acceptable under the City code.

David Hipp asked if they were to deal with court-ordered youth, would there be a change in the criteria associated with the facility according to State or Federal standards. Mr. Edgmon replied that there were not any that he was aware of. Mr. Loria stated that whether they have adjudicated or private referral residents, they are still inspected by a State of Utah inspector. Commissioner Nielsen asked if there would be a difference in staffing based on the type of clientele. Mr. Loria stated that that issue would still be regulated by the State of Utah. There is a staff per resident ratio that has to be met whether the residents are adjudicated or private referral.

Commissioner Nielsen asked Mr. Teuscher if the City Engineer concurred with the adequacy of the traffic impact study and the 20-foot wide hard-surface access that was mandated as part of the previous change on the subdivision and if he had any further comments on that. Mr. Teuscher agreed that it was adequate. Commissioner Nielsen suggested that as part of the conditional use permit it should be noted that it is allowed for a maximum of 24 residents and should there be an expansion they will have to come back before the Commission. Also, part of the conditional use permit should be that the Police Department be notified if any adjudicated residents are brought in.

Commissioner Poelman said that Mr. Teuscher indicated that the Commission should add the stipulation about the paving of the 20-foot wide access driveway and also about the applicant being responsible for the garbage collection. Mr. Teuscher stated that originally the City stated that they would pick up the garbage but it needs to be noted that this is a commercial use and the applicant will have to coordinate garbage pick-up with a private collector. The road is in the subdivision but it should be referenced that it is a requirement of the subdivision and based on the traffic study that it is consistent.

Chairman Lane asked if there was any public comment.

Wynn Parker came to the podium. He had a comment about the 20-foot driveway. He stated that he asked Mr. Teuscher how the driveway was allowed to be used as access to a subdivision. He said that, evidently, it is not covered in the Subdivision Code and is called a private access lane. He explained that when he built his home and part of his subdivision, he was told that he had to have a minimum 26-foot driveway or private street because that is what the subdivision code called for. He questioned why he had to put in a 26-foot driveway/street and this applicant is only required to do 20-feet. He felt that there are some things that are not right with this. He thinks someone is calling it a private access lane to get around the subdivision code. He said that Mr. Teuscher could not tell him why this was.

Mr. Teuscher stated that the original access to this house was a 20-foot lane because that was all that was there. Mr. Parker asked why it is allowed to call their access a 20-foot lane and not be covered by the subdivision code while everyone else has to comply with the 26-foot requirement. He feels there is some discrimination that needs to be addressed. Mr. Teuscher answered that the

two uses have to be separated. The Subdivision Ordinance, on a private lane, now requires 26-feet but because this is an existing condition, it was not required. These are exceptions that the Nelsen's have petitioned the Planning Commission for and the Planning Commission has made a recommendation on the subdivision. If the City Council chooses not to accept the 20-foot lane and half street, they can do so. Fire code states there needs to be a 20-foot travel surface. Regarding the easement, the code recommends 26-feet.

Commissioner Coleman commented that he was not in attendance at the previous meeting. He read the minutes and gathered that they were going to put down spray. Mr. Teuscher stated that Nelsen's proposed using magnesium chloride and the Planning Commission said that it had to be asphalt. If this is approved it needs to be subject to the City Council approving the subdivision as proposed.

MOTION: A motion was made by Commissioner Nielsen to approve **APPLICATION #2823 / CONDITIONAL USE PERMIT / REHABILITATION TREATMENT CENTER-FACILITY / 1125 WEST 950 SOUTH / CATALYST RTC, LLC** with the following items noted; as it will be a commercial use there will be no City garbage pick-up, the approval is contingent on the City Council approving application 2812 the final plat of the subdivision of the noted property, the condition of a maximum of 24 residents at one time and if that is increased they will have to return to the Planning Commission for approval, if any court-ordered or adjudicated clients be admitted that the Police Department be notified, the applicant must comply with all other noted conditions under Chapter 29.06 Conditional Uses, all Staff and Engineering comments, approval is based on the finding of fact that such use will not under the circumstances of this particular case be detrimental to the health, safety or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity, and that such use is in compliance with the Brigham City General Plan. The motion was seconded by Commissioner Coleman and passed unanimously.

APPLICATION #2798 / PEDESTRIAN SIDEWALK MASTER PLAN / BRIGHAM CITY CORPORATION

Mr. Teuscher said that he wants to add, as an appendix, the Public Works Standards for sidewalks and ADA accesses into the document. He also added a section discussing the City's current sidewalk improvement program but his addition would suggest more time is spent using the Sidewalk Master Plan to prioritize where new sidewalk is installed. The hope is it will push up the impetus to increase that funding. One of the real problems that is being seen is the cost of developing sidewalk. The rising cost of concrete is really affecting the City's ability to do things in the roadway and curb, gutter and sidewalk.

He has also listed possible funding sources. Federal funding typically applies only to State routes (SR) which would include; Main Street, SR 13, SR 38, US 89/91. Those are some minor areas where funding from the State could be looked at. There are also CDG grants in areas where there is low to moderate income, special improvement districts, new development and bonding. The City has power to do long-term bonding. There is a revenue bond which is usually issued on a project where there is a revenue stream to pay that back. The other is a general obligation bond which goes before the voters. Finally, he put in the issue of deferred improvements. He has included the beginnings of a table of methodology to be used to evaluate. Mr. Teuscher explained his methodology chart.

Commissioner Nielsen asked why the grade change would be given a significant weight in determining whether or not sidewalk should be put in. Mr. Teuscher replied that sidewalks fall into ADA access. Cities get sued all the time by handicap groups because their sidewalks are not ADA accessible. If we have sidewalks that have huge grade changes we need to make sure they are either put in or not. We can reverse that. Chairman Lane likes the idea of a sidewalk especially in the winter to keep people from walking in the road. To him that would be a greater reason to put in a sidewalk, to keep people away from the road in bad weather. It would make

sense to put a sidewalk on a steep road to keep people away from the road and gives them a safe place to walk.

Commissioner Nielsen stated that he is not ready to send this application on to City Council without seeing the final product. Mr. Teuscher said that, at this point, the only focus is going to be on developing. He said he will continue to develop the model. Now he would like to have a little time to work with the Street Department and Public Works to work out the table and bring it back to the Commission.

MOTION: A motion was made by Commissioner Nielsen to continue **APPLICATION #2798 / PEDESTRIAN SIDEWALK MASTER PLAN / BRIGHAM CITY CORPORATION** until the August 01, 2006 meeting to give Staff time to incorporate comments and bring back another product. The motion was seconded by Commissioner Coleman and passed unanimously.

PUBLIC INPUT:

There was no public input.

DISCUSSION:

There was no discussion.

MOTION: A motion was made by Commissioner Nielsen to adjourn. The motion was seconded by Commissioner Coleman and passed unanimously.

The meeting adjourned at 8:35 p.m.

This certifies that the minutes of June 20, 2006 are a true and accurate copy as approved by the Planning Commission on _____.

*Signed: _____
Jeffery R. Leishman, Secretary*